

THE UNITED STATES DISTRICT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

ARNSTEIN & LEHR LLP, an Illinois
limited liability partnership

Plaintiff,

v.

THOMAS E. DOYLE, JOHN SALLEY,
DAVID HOWITT, A.J. DISCALA,
BRAX CAPITAL GROUP LLC, a
Delaware limited liability company,

Defendants.

FILED: JULY 16, 2008

08CV4030

JUDGE BUCKLO

MAGISTRATE JUDGE VALDEZ

No.

PH

COMPLAINT

Plaintiff, Arnstein & Lehr, LLP, an Illinois limited liability partnership, for its Complaint against Defendants, Thomas E. Doyle, John Salley, David Howitt, A.J. Discala, and Brax Capital Group LLC, a Delaware limited liability company, states as follows:

Introductory Statement

1. This is an action seeking damages in excess of \$75,000.00, exclusive of interest and costs, between residents of different states. This Court has jurisdiction pursuant to 28 U.S.C. § 1332.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)(2).

3. Plaintiff, Arnstein & Lehr LLP ("Arnstein"), is an Illinois limited liability partnership with its principal place of business in Chicago, Illinois.

4. Defendant Thomas E. Doyle ("Doyle") is a resident of Rockville, Maryland.

5. Defendant John Salley ("Salley") is a resident of Los Angeles, California.

6. Defendant David Howitt ("Howitt") is a resident of Portland, Oregon.

7. Defendant A.J. Discala ("Discala") is a resident of New York, New York.

8. Defendant Brax Capital LLC ("Brax") is a Delaware limited liability company with its principal place of business in New York, New York. It is owned by Discala.

Count I
(Breach of Contract – All Defendants)

1.-8. Arnstein realleges Paragraphs 1-8 of the Introductory Statement as and for Paragraphs 1-8 of Count I.

9. On or about February 1, 2007, Defendants engaged Arnstein to provide legal services in connection with litigation being threatened against them concerning the American Basketball Association that they had recently invested in. Suit was subsequently filed against the Defendants, *Joseph F. Newman, et al. v. Thomas E. Doyle, et al*, Case No. 1:07-cv-188-DFH-WTL in the U.S. District Court for the Southern District of Indiana (the "ABA Control Litigation").

10. Pursuant to that engagement, Arnstein rendered substantial legal services to the Defendants at its offices in Chicago, Illinois.

11. Arnstein charged a total of \$141,148.24 for fees and expenses to the Defendants for services rendered in connection with the ABA Control Litigation and related matters. Arnstein submitted its regular billing statements to all of them for payment.

12. The Defendants have not paid any share of Arnstein's charges for legal services. After all just credits and setoffs, \$131,148.24 remains unpaid, due and owing to Arnstein on those charges.

13. The Defendants have not objected to any of Arnstein's charges for legal services.

14. Arnstein has demanded payment of \$131,148.24 from each and all of the Defendants, but they have failed and refused to pay that amount, or any portion of that amount.

15. Arnstein has performed all of the conditions required of it for payment for services rendered to the Defendants.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendants, Thomas E. Doyle, John Salley, David Howitt, A.J. Discala, and Brax Capital Group LLC, a Delaware limited liability company, in the amount of \$131,148.24, plus costs.

Count II
(Account Stated – All Defendants)

1.-14. In the alternative, Arnstein realleges Paragraphs 1-14 of Count I as and for Paragraphs 1-14 of Count II.

15. There is an account stated between Arnstein and the Defendants.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendants, Thomas E. Doyle, John Salley, David Howitt, A.J. Discala, and Brax Capital Group LLC, a Delaware limited liability company, in the amount of \$131,148.24, plus costs.

Count III
(Unjust Enrichment/*Quantum Meruit* – All Defendants)

1.-13. In the alternative, Arnstein realleges Paragraphs 1-13 of Count I as and for Paragraphs 1-13 of Count III.

14. The Defendants received and accepted the legal services provided to them by Arnstein, but have failed and refused to pay for them.

15. By receiving and accepting the legal services provided to them by Arnstein, the Defendants have obtained a benefit because their legal interests were represented and protected in the ABA Control Litigation and related matters for which Arnstein rendered service.

16. By receiving, accepting and benefitting from the legal services provided to them by Arnstein without paying for such services, the Defendants became unjustly enriched and are liable to Arnstein for the reasonable value of such services in the minimum amount of \$131,148.24.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendants, Thomas E. Doyle, John Salley, David Howitt, A.J. Discala, and Brax Capital Group LLC, a Delaware limited liability company, in the minimum amount of \$131,148.24, plus costs.

Count IV
(Breach of Contract – Brax)

1.-8. Arnstein realleges Paragraphs 1-8 of the Introductory Statement as and for Paragraphs 1-8 of Count IV.

9. On or about January 30, 2007, Brax engaged Arnstein to provide legal services in connection with potential claims it might have against Joseph F. Newman, who then controlled the American Basketball Association.

10. Pursuant to that engagement, Arnstein rendered substantial legal services to Brax at its offices in Chicago, Illinois.

11. Arnstein charged Brax a total of \$1,215.00 for fees and expenses for services rendered in connection with that engagement. Arnstein submitted regular billing statements to Brax for payment.

12. Brax has not paid any amount for those services. After all just credits and setoffs, \$1,215.00 remains unpaid, due and owing to Arnstein on those charges.

13. Brax has not objected to any of Arnstein's charges for legal services.

14. Arnstein has demanded payment of \$1,215.00 from Brax, but it has failed and refused to pay that amount, or any portion of that amount.

15. Arnstein has performed all of the conditions required of it for payment for services rendered to Brax.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendant, Brax Capital Group LLC, a Delaware limited liability company, in the amount of \$1,215.00, plus costs.

Count V
(Account Stated – Brax)

1.-14. In the alternative, Arnstein realleges Paragraphs 1-14 of Count IV as and for Paragraphs 1-14 of Count V.

15. There is an account stated between Arnstein and Brax.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendant, Brax Capital Group LLC, a Delaware limited liability company, in the amount of \$1,215.00, plus costs.

Count VI
(Unjust Enrichment/*Quantum Meruit* – Brax)

1.-13. In the alternative, Arnstein realleges Paragraphs 1-13 of Count IV as and for Paragraphs 1-13 of Count VI.

14. Brax received and accepted the legal services provided to it by Arnstein, but has failed and refused to pay for them.

15. By receiving and accepting the legal services provided to it by Arnstein, Brax has obtained a benefit because of the legal advice and counsel which Arnstein rendered to it.

16. By receiving, accepting and benefitting from the legal services provided to it by Arnstein without paying for such services, Brax became unjustly enriched and is liable to Arnstein for the reasonable value of such services in the minimum amount of \$1,215.00.

WHEREFORE, Plaintiff, Arnstein & Lehr LLP, prays for entry of judgment in its favor and against Defendant, Brax Capital Group LLC, a Delaware limited liability company, in the minimum amount of \$1,215.00, plus costs.

ARNSTEIN & LEHR LLP

By: /s/ John L. Ropiequet
One of its attorneys

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